

Senate Bill No. 1341

Passed the Senate August 21, 2012

Secretary of the Senate

Passed the Assembly August 16, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 23778 of, and to repeal and add Section 23703 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1341, Wolk. Corporation Tax Law: charitable corporations: exemptions: revocation.

Existing law provides that no exemption shall be allowed for a charitable corporation that fails to file required registration or periodic reports with the Attorney General. Existing law provides that after the Attorney General has notified the Franchise Tax Board in writing that a charitable corporation has failed to file required registration or periodic reports, the exemption will be disallowed and may only be reinstated when the registration or periodic reports are filed. Existing law further provides that a charitable corporation whose exemption is disallowed must pay the minimum tax, as provided, for any year or years its exemption was disallowed.

This bill would require the Franchise Tax Board to mail a notice to a charitable corporation that has not filed its required registration or periodic reports with the Attorney General, stating the intent of the Franchise Tax Board to revoke the exemption unless the charitable corporation files all past due and currently due documents, as provided, within a specified applicable period. This bill would remove the requirement that a charitable corporation whose exemption is disallowed pay the minimum tax for any year or years its exemption was disallowed. This bill would allow a charitable corporation whose exemption has been revoked to reestablish its exemption by filing and paying specified applications, fees, returns, statements, and payments.

The people of the State of California do enact as follows:

SECTION 1. Section 23703 of the Revenue and Taxation Code is repealed.

SEC. 2. Section 23703 is added to the Revenue and Taxation Code, to read:

23703. (a) For purposes of this section, “charitable corporation” means a corporation defined in Section 12582.1 of the Government Code that is required to comply with the filing requirements set forth in Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(b) (1) The exemption granted to a charitable corporation under the provisions of Article 1 (commencing with Section 23701) shall be revoked by the Franchise Tax Board in accordance with this section if the charitable corporation fails to file with the Attorney General any registration or periodic report required by Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(2) A revocation shall occur under this section only after the Attorney General has first notified the Franchise Tax Board in writing that a charitable corporation has failed to file any registration or periodic report on or before the due date thereof, and the Franchise Tax Board has mailed a notice to the charitable corporation stating that the Franchise Tax Board intends to revoke the exemption if the charitable corporation does not file with the Attorney General all past due and currently due documents required by Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(3) After receipt of all required documents from a charitable corporation, the Attorney General shall provide prompt notification to the Franchise Tax Board and the charitable corporation that the charitable corporation has filed all past due and currently due documents required by Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(c) (1) If the Franchise Tax Board does not obtain notification from the Attorney General pursuant to paragraph (3) of subdivision (b) that the charitable corporation has complied with the filing requirements described in subdivision (b) by the last day of the applicable period, the Franchise Tax Board shall revoke the exemption granted to the charitable corporation pursuant to Section 23777 on the first day after the applicable period.

(2) For purposes of this subdivision, the applicable period means:

(A) For notifications of noncompliance from the Attorney General that are received by the Franchise Tax Board before the effective date of the act adding this section, the applicable period shall be 120 days after the effective date of the act adding this section.

(B) For notifications of noncompliance from the Attorney General that are received by the Franchise Tax Board on or after the effective date of the act adding this section, the applicable period shall be 120 days after the Franchise Tax Board mails notification of the intent to revoke the exemption granted to the charitable corporation.

(d) For a charitable corporation whose exemption has been disallowed pursuant to Section 23703, as amended by Section 94 of Chapter 862 of the Statutes of 2000, prior to the effective date of the act adding this section, the Franchise Tax Board may reestablish that charitable corporation's exempt status under Section 23778, after receipt of notification from the Attorney General pursuant to paragraph (3) of subdivision (b) that the filing requirements set forth in Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code have been fulfilled. For purposes of reestablishing the charitable corporation's exempt status under Section 23778, disallowance under Section 23703, as amended by Section 94 of Chapter 862 of the Statutes of 2000, shall be considered a revocation of exemption.

(e) This section shall apply with respect to notifications of noncompliance received from the Attorney General before, on, or after the effective date of the act adding this section.

SEC. 3. Section 23778 of the Revenue and Taxation Code is amended to read:

23778. An organization whose exemption was revoked under Section 23703 or 23777 may be reestablished as an exempt organization upon:

(a) The filing or payment of both of the following:

(1) A new application for exemption and payment of the filing fee required under Section 23701.

(2) Any returns, statements, or payment of any amounts due under this part or Part 10.2 (commencing with Section 18401) which were not previously submitted or paid and which resulted in the revocation.

(b) When revocation occurred under subdivision (c) of Section 23777, satisfactory proof that all of the following have occurred:

- (1) The organization has corrected its nonexempt activities.
- (2) That it will operate in an exempt manner in the future.
- (3) The payment of any tax for periods the organization was not qualified for exemption.

SEC. 4. The Legislature finds and declares that the minimum franchise tax abatement for charitable corporations, and related penalties and interest, by this act with respect to previous taxable years serves a public purpose of encouraging charitable corporations to come into compliance with filing requirements of a charitable corporation so that all Californians can continue to support and donate to much needed charitable organizations.

Approved _____, 2012

Governor